IN THE HIGH COURT OF PUNJAB & HARYANA, CHANDIGARH

C. R. No. 1278 of 1995
Date of decision November 1, 2006

M/s P.L. Dua and sons

.....Petitioner

Versus

Punjab Small Industries & Export Corporation Limited

.....Respondents

CORAM: HON'BLE MR. JUSTICE VINEY MITTAL

Present:- Sh. Ashwani Bansal, Advocate
for the petitioner.

Sh. Heman Aggarwal, Advocate
for the respondent.

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Viney Mittal, J (Oral)

This order shall dispose of two revision petitions being Civil Revision No.1278 of 1995 and 643 of 1995 as both the revision petitions have arisen out of the common proceedings taken by the Court below.

Civil Revision No.1278 of 1995 has been filed by the contractors, whereas civil revision No.643 of 1995 has been filed by Punjab Small Industries and Exports Corporation.

For the sake of convenience, facts have been taken from Civil Revision No. 1278 of 1995.

On a request made by learned counsel for the petitioner, the present petition is ordered to be treated as a petition filed under Article 227 of the Constitution of India.

A dispute had arisen between the Contractors M/s P.L.

Dua and sons (hereinafter referred to as the 'Contractors') and Punjab Small Industries and Exports Corporation (hereinafter referred to as the 'Corporation'). The aforesaid dispute was referred to for adjudication to an Arbitrator. The Arbitrator rendered his award dated November 22, 1990.

In the proceedings taken for making the aforesaid award a rule of the Court, the Corporation filed objections. On consideration of the objections, the learned trial Court rejected the said objections and ordered the award dated November 22, 1990 to be made a rule of the Court. The learned trial Judge also directed that the Contractor was entitled to interest at the rate of 18% per annum from the date of the award till the date of decree and future interest at the rate of 6% per annum from the date of decree till the realization of the award. However, no interest was granted by the trial Judge with regard to the period prior to the award.

The Contractor filed an appeal before the first Appellate Court. He claimed that he was also entitled to the interest for the period prior to the award. The Corporation also filed cross objections. The matter was re-considered by the Appellate Court. The Appellate Court upheld the order of the trial Judge whereby the award in question was made a rule of the Court.

However, interest at the rate of 18% per annum was also allowed from September, 1985 till August, 1990 that is the pre-award period. However, cross objections filed by the Corporation were also allowed to the extent that the decree allowing interest awarded by the trial Court for the period after the date of the award till the date of the decree of the trial Court was reversed.

As noticed above, the Contractor as well as the

Corporation have approached this Court challenging the order passed by the learned Additional District Judge, Chandigarh.

Sh. Ashwani Bansal, learned counsel appearing on behalf of the Contractor has argued that the Contractor was also entitled to the interest from the date of the award till the passing of the decree by the trial Judge. In this regard, the learned counsel has relied upon a judgment of the Apex Court in **T.P. George Vs. State of Kerala and another** AIR 2001(1) Arbitration Law Reporter 490.

I have duly considered the aforesaid contentions of the learned counsel for the Contractor and have also gone through the law laid down by the Apex Court in T. P. George's case (supra). The following observations made in T.P. George's case may be noticed:-

> *"The next question is whether the High Court was right in setting aside the Award of the interest from the date of the Award. This Court has held in the case of Jagdish Rao(sic Rai) & Brothers vs. Union of India, that the Award of interest ought to be granted in all cases when there is a decree of money unless these are strong reasons to decline the same. In the case of M/s Jagdish Rai & Brothers vs. Union of India reported in JT 1999(2) SC 268=1999(1) Arb. LR 696 (SC), this Court has held that there are four stages of grant of interest, viz.,(1) from the stage of accrual of cause of action till filing of the arbitration proceedings, (2) during pendency of the proceedings before Arbitrator, (3) future interest arising between date of Award and date of the decree, and (4)*

interest arising from date of decree till realisation of award. The power of Court to grant interest from date of decree is not in doubt. In the case of Hindustan Construction Co. Ltd. Vs. State of Jammu and Kashmir, this Court has held that the Arbitrator is competent to Award interest from the date of the Award. This court has held in the case of Secretary, Irrigation Department, Government of Orissa and others Vs. G.C. Roy, Executive Engineer, Dhenkanal Minor Irrigation Division, Orissa, etc. etc. vs. N.C. Budharaj (Dead) by Lrs. Etc. etc., this Court has held that Arbitrator can Award interest for the pre-reference period. Thus as per law laid down by this Court, interest can be awarded at all four stages. The reasoning given by the High Court that interest cannot be awarded by the Arbitrator is thus fallacious and cannot be sustained. In our view the direction to pay interest from date of Award cannot be faulted. The impugned judgment to the extent that it disallows the interest from the date of the Award is set aside."

In view of the law laid down by the Apex Court in T.P. George's case (supra) it has to be held that the Contractor is also entitled to the interest from the date of the award i.e. November 22, 1990 till the date of the decree that is September 7, 1992 at the rate of 18% per annum, as awarded by the Arbitrator.

Consequently, the Civil Revision No. 1278 of 1995 filed

by the Contractors is allowed. Civil Revision No. 634 of 1995 filed by the Corporation is dismissed.

(VINEY MITTAL)
JUDGE

November 1, 2006
archana

IN THE HIGH COURT OF PUNJAB & HARYANA, CHANDIGARH

C. R. No. 643 of 1995
Date of decision November 1, 2006

Punjab Small Industries & Export Corporation Limited

.....Petitioner

Versus

M/s P.L. Dua and sons

.....Respondents

CORAM: HON'BLE MR. JUSTICE VINEY MITTAL

Present:- Sh. Ashwani Bansal, Advocate
for the petitioner.

Sh. Heman Aggarwal, Advocate
for the respondent.

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Viney Mittal, J (Oral)

For orders see Civil Revision No. 1278 of 1995 M/s P.L. Dua and sons Vs. Punjab Small Industries & Export Corporation Limited decided on November 1, 2006.

(VINEY MITTAL)
JUDGE

November 1, 2006
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